

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

EVANGELINA AGUILERA

and

ANGELINA NUNEZ,

individually and on behalf of all others similarly situated,

Plaintiffs,

Case No. 13-CV-1245

v.

WAUKESHA MEMORIAL HOSPITAL, INC.

and

PROHEALTH CARE, INC.,

Defendants.

**DEFENDANTS' RESPONSES TO PLAINTIFFS'
SECOND INTERROGATORIES**

Defendants Waukesha Memorial Hospital, Inc. ("Waukesha") and ProHealth Care, Inc. ("ProHealth") (collectively, "Defendants"), by and through their undersigned attorneys, hereby respond to Plaintiffs' Second Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1. Please identify all electronic databases, other data files, or documents which Defendants maintain or have in the past maintained, or to which Defendants have access, at any time from November 5, 2010 through the present, containing any of the following information for any present or former Certified Nursing Assistant ("CNA") or CNA managers employed by Defendant.

- A. First name;
- B. Last name;

- C. Residence address;
- D. Phone number;
- E. Social security number;
- F. Date(s) of entering and leaving employment;
- G. Scheduled work hours;
- H. Hours worked;
- I. Beginning of each pay period;
- J. Time of beginning and ending of work each day;
- K. Time of beginning and ending of paid work each day;
- L. Total number of hours worked each day;
- M. Total number of hours worked each week;
- N. Payroll periods;
- O. Rate of pay for each payroll period;
- P. Gross wages paid each payroll period;
- Q. Net wages paid each payroll period;
- R. The amount and reason of any deductions;
- S. Start time of any unpaid work breaks; and
- T. End time of any unpaid work breaks.

ANSWER:

Waukesha and ProHealth primarily use Kronos, Incorporated to store and maintain employee information listed in categories A –T above. Employees punch in and out via Kronos each day in order to track hours worked. Lawson HRIS System is an electronic storage system for employee data including payroll and check information. Kronos interacts with Lawson to feed it appropriate payroll information.

In addition, a Manual Edit Log is maintained which allows employees to manually record any corrections or edits to hours recorded in Kronos.

INTERROGATORY NO. 2. For each file or database identified in response to Interrogatory No. 1, identify:

- A. The database structure or file type (relational, sequential, indexed sequential, Access database, Excel spreadsheet, etc.);
- B. The time period covered by the records in the current or most recent version of the file/database;
- C. Which group(s) of employees are included in the file/database;
- D. All media on which the file/database currently resides (e.g. hard disk, backup tape, etc.); and
- E. The current physical location of the file, document or database.

ANSWER:

Kronos, Inc. is stored electronically within Waukesha Memorial Hospital. Kronos Time Keeping System enables authorized Waukesha Memorial Hospital or ProHealth employees to run various reports related to employees, hours and pay. Information for all full-time employees, including CNAs, is maintained in Kronos. The Kronos system was implemented prior to November 5, 2010. Specifically, Kronos was rolled out in stages between 2002 and 2004.

The Manual Edit Logs for the current calendar year are stored in paper form at Waukesha Memorial Hospital. Older Manual Edit Logs are stored in offsite storage location. The Manual Edit Log is a backup system for manual edits.

Lawson HRIS system is an electronic storage system for employee data. Data on all hourly employees is maintained in Lawson.

INTERROGATORY NO. 3. Identify all training that any CNA or CNA manager who has worked for Defendants since November 5, 2010, has received from Defendants - either individually or jointly - or third parties. For each type or instance of training identified, identify:

- A. The identity of each CNA or CNA manager receiving such training;
- B. The date(s) each CNA or CNA manager received such training;
- C. The identity of the individual or entity which held, facilitated, or lead the training;
- D. The topic or content of the training;
- E. Any documents used in the training or provided to each CNA or CNA manager; and
- F. Any documents or sign in sheets establishing which CNA or CNA manager received such training.

ANSWER:

All employees hired since November 5, 2010 have participated in a new employee orientation training upon hire. A list of dates on which specific new employee orientations occurred is found at WMH001892-1899. A general Power Point presentation is provided during orientation. The frequency of orientation trainings varies, depending on the number of new hires. With some variation due to the schedules of presenters, New Employee Orientation includes presentations by: Director of Human Resources,

Organizational Effectiveness & Employee Relations; Director of Community Benefits; Manager of Total Rewards; Manager of Corporate Communications; and a Human Resources Generalist.

Additionally, as part of the new employee orientation, employees complete I-Learning computer based learning programs (“CBLs”), which address various task specific trainings. For an exemplar of NetLearning courses, see WMH002210-002218. Regulatory training may be required on an annual basis through the NetLearning program. An exemplar of Competency Verifications and mandatory education is found in the personnel file of Nunez at WMH001826-001836.

INTERROGATORY NO. 4. Identify all compensation policies or practices applicable to Defendants’ CNAs or CNA manager, and any changes thereto, from November 5, 2010 through current, including, but not limited to, the policies or practices with regard to the requirement that CNAs carry communication devices (pagers, cell phones and/or two way radios), auto-deduction of 30 minutes for meal periods, when the workday begins, and when the workday ends. For each policy of practice, identify:

- A. The substance of the practice or policy;
- B. What time period the practice or policy was in place;
- C. Which CNAs or CNA managers the practice or policy was applicable to;
- D. Any documents evidencing the policy or practice; and
- E. If the policy or practice has changed, who was involved in or consulted with in regard to the modification, the identity of the individuals involved in or consulted with in regard to the modification, and documents referencing or regarding the change.

ANSWER:

Phones are assigned by patient group. Upon arriving at work and commencing a shift, CNAs are assigned to a patient group and must take the phone assigned for that patient group. CNAs retrieve the appropriate communication device from the CNA assigned to that patient group during the previous shift. Employees are to keep the communication device until a shift is over. The requirement that communication devices be retrieved upon arrival and kept until the end of a shift has been in place since before

2010. Employees are permitted to hand off the communication device when necessary, but are not required to do so. Because of work needs, all CNAs in a department may not go to break at the same time. Automatic reduction of meal breaks has taken place since before 2010.

If a CNA is contacted during a break, it is the policy of Defendants that employees may take an additional break later in the day. Alternatively, a CNA may log “no meal break” in Kronos when swiping out of a shift or record in the Manual Edit Log that he/she did not receive a meal break. Logging “no meal break” in Kronos or the Manual Edit Log results in a reversal of the 30 minute meal deduction. See WMH000115-000131.

INTERROGATORY NO. 5. Identify any complaint or other inquiry, whether formal or informal, written or verbal, by a current or former CNA or CNA manager of Defendants for not being paid overtime or other wages, including identifying the CNA or CNA manager, the individual receiving the complaint, the specific details of the complaint, and any documents evidencing or referencing the complaint.

ANSWER: The Manual Edit Log reflects specific instances in which an employee indicates that hours in Kronos need to be corrected or altered. WMH002574-002785. If a CNA believes there is a mistake in pay, they are instructed to bring the matter to the attention of a supervisor or payroll for resolution. Defendants do not maintain a log of inquiries by individual CNAs other than the Manual Edit Log. Defendants are not aware of any complaints regarding inappropriate overtime wage policies. Investigation continues.

INTERROGATORY NO. 6. Describe the nature of the business relationship between Waukesha Memorial Hospital, Inc. and ProHealth, Inc.

ANSWER:

Defendants object that Interrogatory No. 6 is unduly vague. Without waiving the foregoing objection, Defendants answer that ProHealth Care is a community-based health care system. Waukesha Memorial Hospital is a major tertiary-care hospital with

approximately 295 beds, and is part of ProHealth Care's regional integrated health network.

Respectfully submitted,

By: 

MICHAEL R. LIED (IL ARDC No. 06197844)
HOWARD & HOWARD ATTORNEYS PLLC
One Technology Plaza, Suite 600
211 Fulton Street
Peoria, Illinois 61602
Telephone: 309-672-1483
Facsimile: 309-672-1568
mlied@howardandhoward.com

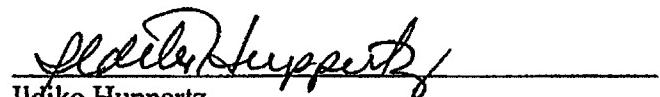
EMILY E. BENNETT (IL ARDC No. 06305461)
HOWARD & HOWARD ATTORNEYS PLLC
200 S. Michigan Avenue #1100
Chicago, Illinois 60605
Telephone: 312-456-3422
Facsimile: 312-939-5617
ebennett@howardandhoward.com

Dated: April 4, 2014

VERIFICATION

Under penalties as provided by law pursuant to 28 U.S.C. § 1746, the undersigned certifies under penalties of perjury that the foregoing Answers to Interrogatories are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Dated this 3 day of April 2014.



Ildiko Huppertz
Director, Organizational Effectiveness & Employee
Relations, Human Resources

**CERTIFICATE OF ELECTRONIC FILING
AND CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that on April 4, 2014, I caused a true and correct copy of the foregoing Responses to Plaintiff's Second Interrogatories to be served on the following by placing the same in an envelope with postage paid into the UPS overnight dropbox at 200 South Michigan Avenue in the City of Chicago, State of Illinois at or before 8:45 pm:

Summer H. Murshid
Larry Johnson
Timothy P. Maynard
Hawks Quindel, S.C.
222 East Erie Street, Suite 210
Milwaukee, WI 53202

/s/

